

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS

STATE OF IDAHO

ORIGINAL

In the Matter of the License of:)

ROBERT S. SMITH,)

License No. SW-2403,)

Respondent.)

Case No. SWO-L5A-04-00-009

**STIPULATION AND
CONSENT ORDER**

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WHEREAS, information having been received by the Idaho State Board of Social Work Examiners (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Robert S. Smith (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of social work in the State of Idaho in accordance with title 54, chapter 32, Idaho Code.

2. Respondent Robert S. Smith is a licensee of the Idaho State Board of Social Work Examiners and holds License No. SW-2403 to practice social work in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 32, Idaho Code.

3. From approximately August 1998 to April 2000, Respondent was employed by Joshua D. Smith & Associates, Inc., and was trained and assigned to work in a community-based psycho-social rehabilitation program serving persons with mental health conditions.

4. On at least four different dates between November 1999 and January 2000, Respondent billed Medicaid for services and made entries in clients' records when he did not, in fact, provide services on those dates.

5. In a letter to the Bureau of Occupational Licenses dated October 29, 2000, Respondent admitted the fraudulent entries in the clients' records which, in turn, generated fraudulent billings to Medicaid. A copy of Respondent's letter is attached hereto as Exhibit 1.

6. The above-stated allegations, if proven, would constitute a violation of the laws and rules governing the practice of social work; in particular, Idaho Code § 54-3211(6) and Board Rules 400 and 450.01.b promulgated at IDAPA 24.14.01 *et seq.* Violations of these laws and rules would further constitute grounds for disciplinary action against Respondent's license to practice social work in the State of Idaho.

7. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against his license as set forth in Section C below.

B.

I, Robert S. Smith, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in section A. I further understand that these allegations constitute cause for disciplinary action upon my license to practice social work in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of social work in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this consent order I am enabling the Board to impose disciplinary action upon my license without further process.

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. License No. SW-2403 issued to Respondent Robert S. Smith is hereby suspended for a period of ninety (90) days. During the 90-day suspension period, Respondent shall not practice social work in the State of Idaho. The 90-day mandatory suspension period shall commence five (5) days from the date of entry of the Board's Order.

2. Respondent shall pay investigative costs and attorney fees in the amount of Three Hundred and No/100 Dollars (\$300.00) within ten (10) days of the date of entry of the Board's Order, made payable to the Board of Social Work Examiners.

3. Respondent shall pay to the Board an administrative fine in the amount of One Thousand and No/100 Dollars (\$1,000.00). The fine shall be payable in equal monthly installments of \$100.00. The payments shall be due and payable no later than the last day of each calendar month, and must be received by the Board on or before the 29th day of each calendar month. All payments shall be made payable to the Board of Social Work Examiners, and mailed to the Bureau of Occupational Licenses, 1109 Main Street, Owyhee Plaza, Suite 220, Boise, ID 83702-5642. Failure to timely make any payment shall be considered a default of this Stipulation.

4. At the conclusion of the 90-day mandatory suspension period, Respondent's License No. SW-2403 shall be placed on probation for a period of one (1) year. The conditions of probation are as follows:

a. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of social work in the State of Idaho.

b. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.

c. In the event Respondent should leave Idaho for three (3) continuous months, or to reside or practice outside of the state, Respondent must provide written notification to the Board of the dates of departure, address of intended residence or place of business, and indicate whether Respondent intends to return. Periods of time spent outside Idaho will not apply to the reduction of this period or excuse compliance with the terms of this Stipulation.

d. Respondent shall fully cooperate with the Board and its agents, and submit any documents or other information within a reasonable time after a request is made for such documents or information.

e. Respondent shall make all files, records, correspondence or other documents available immediately upon the demand of any member of the Board's staff or its agents.

5. At the conclusion of the one-year probationary period, Respondent may request from the Board reinstatement of License No. SW-2403 without further restrictions. Any request for reinstatement must be accompanied by written proof of compliance with the terms of this Stipulation. The Board shall grant reinstatement without restrictions provided the terms of the Stipulation have been met.

6. All costs associated with compliance with the terms of this stipulation are the sole responsibility of Respondent.

7. The violation of any of the terms of this Stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D.

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney

General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this Stipulation, and if rejected by the Board, a formal complaint may be filed against Respondent. Respondent hereby agrees to waive any right Respondent may have to challenge the impartiality of the Board to hear the disciplinary complaint if, after review by the Board, this Stipulation is rejected.

3. If the Stipulation is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the Stipulation will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. The Consent Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-3211. If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board. Within twenty-one (21) days after the notice of hearing and charges are served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations will be deemed admitted.

b. At the hearing before the Board upon default, the Board and Respondent may submit affidavits made on personal knowledge and argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Respondent waives a hearing before the Board on the facts and

substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.


c. At the hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

7. The Board shall have the right to make full disclosure of this Stipulation and Consent Order and the underlying facts relating hereto to any state, agency or individual requesting information subject to any applicable provisions of the Idaho Public Records Act, Idaho Code §§ 9-337-50.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

DATED this 19 day of January, 2008.


Robert S. Smith
Respondent

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I concur in this stipulation and order.

DATED this 24 day of January, 2000.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By Kirsten L. Wallace
Kirsten L. Wallace
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-3204, the foregoing is adopted as the decision of the Board of Social Work Examiners in this matter and shall be effective on the 29 day of January, 2000. **IT IS SO ORDERED.**

IDAHO STATE BOARD
OF SOCIAL WORK EXAMINERS

By Kenneth B. Salzman
Kenneth Salzman, Chair

CERTIFICATE OF SERVICE

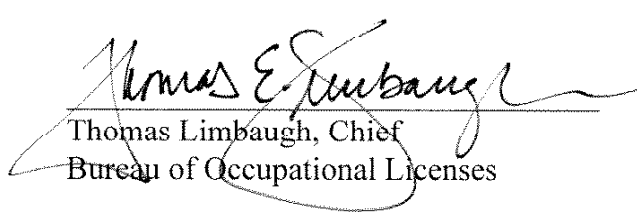
I HEREBY CERTIFY that on this 29th day of January, 2008¹, I caused to be served a true and correct copy of the foregoing by the following method to:

Robert S. Smith
533 Ruth Avenue
Idaho Falls, ID 83401

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Kirsten L. Wallace
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail


Thomas Limbaugh, Chief
Bureau of Occupational Licenses

October 29, 2000

Bureau of Occupational Licenses:

In June a complaint was filed against myself by Steve Hansen, and Joshua D. Smith & Associates, saying that I billed for services that weren't provided.

I was brought before Steve Hansen and Kelly Keele in April where they asked if the above services had been provided. I explained that I had written my notes before the service was to be provided since I normally did the exact same service with my clients out in the Arco area. This process was due to a conflict of interest between myself and the program manager out at the Arco program of Joshua D. Smith & Associates. She and I didn't share the same ideas about how clients should be treated. To avoid confrontation I picked up the clients I worked with and took them out into the community to do the basic living skills, symptom management skills, and employment skill training I provided. I had written out the weeks notes for the Arco clients I saw at the beginning of the week, to avoid staying up all night on the weekend, and when it came time to turn in my notes I hadn't thought about pulling my note for the client who I hadn't seen that week; therefore I turned in a note for four hours for a client I hadn't seen and was given my paycheck which included money for those four hours. I brought this discrepancy up to my supervisor who told me it would be taken care of. This happened in November of 1999 while the client was gone home for Thanksgiving. Nothing was done to correct my error by being docked pay and therefore it somehow seemed okay. The first time was an accident, the next three times were not. There were three other times, when one client was gone for Christmas and for New Year, and when a different client was spending time with her family that I knowingly submitted billings for those clients. I know I was wrong and deeply regret the mistake and the stupidity for allowing it to happen.

When confronted about these errors I admitted to doing them and promptly wished to correct my wrong doing and make it right again by paying back the money I had received. The only options I was given was to resign or be fired. I was told they didn't want me to repay the money, and that Joshua D. Smith & Associates would make a payment back to Medicaid for the erroneous billings without my help.

I do not deny that I made a mistake. I am more than willing to do what it takes to set things right again. I understand that my Social Work career is in the balance, I am very remorseful and sorry for all of this. I do wish to remain in the Social Work field as my career, I feel I have much to offer clients and other workers alike.

My life has been in shambles since all this came about. The forgiveness process is a difficult one and I am still struggling to regain homeostasis in my life, and my families lives. I have obtained a job in the social work field and believe I am doing good in assisting people with their needs. I am not as pro-active as I was prior to this incident, due to the belief that I will be viewed as a fraud, and don't wish to stir up any hard feelings others may have toward me. I myself don't feel ill toward my former employer or any of their employees. I wish to regain some dignity and be able to hold my head up and smile again.

Robert S. Smith

Exhibit 1
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